

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
DOCKET NO. 3:09-cv-00026-W**

**GARY T. YOUNG,**

**Plaintiff,**

**vs.**

**OFFICE DEPOT, INC.,**

**Defendant.**

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**ORDER**

THIS MATTER is before the Court *sua sponte* concerning the status of Plaintiff's case. On August 11, 2009, the Court issued a Show Cause Order (Doc. No. 17) after several unsuccessful attempts by the Court to mail Plaintiff, who appears pro se, various legal documents, including the Pretrial Order and Case Management Plan. The Show Cause Order gave Plaintiff until September 10, 2009, to submit a response. Once again, that Order addressed to Plaintiff was returned as undeliverable. Eventually, since no response was entered by Plaintiff, the Court entered an order on September 21, 2009, dismissing Plaintiff's case without prejudice (Doc. No. 19) and closing the case. On October 13, 2009, over a month after the deadline for Plaintiff to respond to the Show Cause Order, Plaintiff filed a document with the Court requesting the Court to "reconsider my case." (Doc. No. 20). Plaintiff attached several documents, which Plaintiff contended were responsive to the Show Cause Order.

Because the case was closed, the Court inadvertently failed to consider the nature of Plaintiff's filing until recently, when the Court revisited the docket after receiving notice that Plaintiff had filed a "Notice of Change of Address." Now that the October 13, 2009, document has come to the Court's attention and in light of the fact that Plaintiff appears pro se in this matter, out

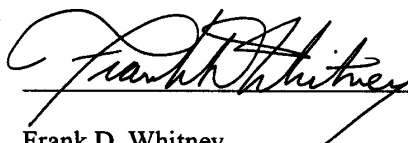
of an abundance of caution, the Court will construe Plaintiff's filing as a Motion to Reopen the Deadline to Respond to the Show Cause Order for excusable neglect pursuant to Fed. R. Civ. Pro. 6(b)(1)(B).

Even construing the filing as a Motion to Reopen, the Court finds that Plaintiff's "motion" is deficient, without more. As a result, Plaintiff should file a sworn affidavit no later than September 24, 2010, setting forth the specific reasons for his delay, including why he failed to keep the Court apprised of his current address and why he failed to respond by the imposed deadlines. Defendant shall have fourteen (14) days from the filing of Plaintiff's affidavit to respond. The Court will then review the case to determine the danger of prejudice to Defendant, the good faith of Plaintiff, and the extent of the delay. It is possible that a favorable ruling for Plaintiff would reopen this case.

IT IS THEREFORE ORDERED that Plaintiff's filing on October 13, 2009, shall be deemed a "Motion to Reopen the Deadline for Responding to the Show Cause Order." Plaintiff shall supplement its motion with an affidavit in accordance with the requirements set forth above no later than September 24, 2010. Defendant shall file its response fourteen days after Plaintiff's filing.

IT IS SO ORDERED.

Signed: September 10, 2010

  
Frank D. Whitney  
United States District Judge

